

SEP 26 2008

JAMES N. HATTEN, Clerk

By: *J. White* Deputy Clerk**ORIGINAL**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

ANNIE CARTER BOYKIN, :  
 Individually and as Surviving :  
 Spouse of Christopher Boykin, :  
 And as Administrator for the :  
 Estate of Christopher Boykin, :

Plaintiff, :

v. :

CIVIL ACTION FILE

NUMBER: \_\_\_\_\_

TENET SOUTH FULTON , INC. d/b/a :  
 SOUTH FULTON MEDICAL CENTER, :  
 SOUTH FULTON MEDICAL CENTER, :  
 L.L.C., CLIFTON LAVENHOUSE, M.D.:  
 APOLLO MD, L.L.C., APOLLO MD :  
 PHYSICIAN SERVICES GA, L.L.C., :  
 APOLLO MD PHYSICIAN SERVICES NC :  
 L.L.C., RENEE SMALLS, R.N., :  
 JOHN DOE 1, M.D., and JOHN DOES :  
 2-3, :

Defendants :

**1 08-CV-3016**

**-CCJ**

NOTICE OF REMOVAL

Defendant TENET SOUTH FULTON, Inc. d/b/a SOUTH FULTON MEDICAL CENTER and RENEE SMALLS, RN, by and through their attorney and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal with respect to Civil Action File No. 2008EV005419H pending in the State Court of Fulton County, Georgia, for the reasons stated below:

1.

On or about August 27, 2008, Plaintiff commenced this civil action by filing a Complaint in the State Court of Fulton County, State of Georgia, Civil Action No. 2008EV005419H, entitled Annie

Carter Boykin, Individually and as Surviving Spouse of Christopher Boykin, and as Administrator for the Estate of Christopher Boykin v. Tenet South Fulton, Inc. d/b/a South Fulton Medical Center, South Fulton Medical Center, L.L.C., Clifton Lavenhouse, M.D., Apollo MD, L.L.C., Apollo MD Physician Services GA, L.L.C., Apollo MD Physician Services NC, L.L.C., Renee Smalls, R.N., John Doe 1, M.D. and John Does 2-3.

2.

Tenet South Fulton, Inc. d/b/a South Fulton Medical Center first received a copy of Plaintiffs' initial pleadings setting forth the claims for relief upon which this action is based on August 29, 2008.

3.

This is a civil action for medical malpractice based upon alleged acts of negligence, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties.

4.

The matter in dispute exceeds \$75,000.00, exclusive of interest and costs.

5.

The controversy in this action is wholly between citizens of different states. This court has jurisdiction pursuant to 28 U.S.C. § 1332.

6.

At the time of the commencement of this action in state court, and since that time, the Plaintiff Annie Carter Boykin was, and is now, a citizen of Alabama.

7.

At the time of the commencement of this action and service of the Summons and Complaint and at all times referred to in the Complaint, Tenet South Fulton, Inc. d/b/a South Fulton Medical Center was, and still is, a corporation, incorporated and existing under and by virtue of the laws of Georgia, having its principal place of business in Texas.

8.

At the time of the commencement of this action and service of the Summons and Complaint and at all times referred to in the Complaint, Clifton Lavenhouse, M.D. was, and still is, a citizen of North Carolina.

9.

At the time of the commencement of this action and service of the Summons and Complaint and at all times referred to in the Complaint, Apollo MD, L.L.C. was, and still is, a corporation, incorporated and existing under and by virtue of the laws of Georgia, having its principal place of business in Georgia.

10.

At the time of the commencement of this action and service

of the Summons and Complaint and at all times referred to in the Complaint, Apollo MD Physician Services GA, L.L.C. was, and still is, a corporation, incorporated and existing under and by virtue of the laws of Georgia, having its principal place of business in Georgia.

11.

At the time of the commencement of this action and service of the Summons and Complaint and at all times referred to in the Complaint, Apollo MD Physician Services NC, L.L.C. was, and still is, a corporation, incorporated and existing under and by virtue of the laws of Georgia, having its principal place of business in Georgia.

12.

At the time of the commencement of this action and service of the Summons and Complaint and at all times referred to in the Complaint, Renee Smalls, R.N. was, and still is, a citizen of Georgia.

13.

This Notice of Removal is filed in the United States District Court for the Northern District of Georgia within the time allowed by law for removal of civil actions, that is, within thirty days after the Defendant first received a copy of Plaintiffs' initial pleadings setting forth the claims for relief upon which this action is based.

14.

Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders served upon Tenet South Fulton, Inc. d/b/a South Fulton Medical Center in this action to date are attached hereto as Exhibit A.

15.

Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal has been filed with the Clerk of the State Court of Fulton County, State of Georgia, and has been served on the adverse parties.

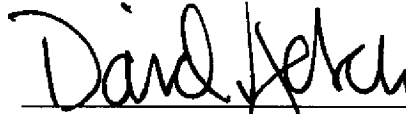
16.

The undersigned has read this Notice of Removal, and to the best of the undersigned's knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law, and it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, Defendant Tenet South Fulton, Inc. d/b/a South Fulton Medical Center hereby removes this civil action to the United States District Court for the Northern District of Georgia, requesting that it proceed in this Court as an action properly removed to it.

This 26th day of September, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Johnson", written over a horizontal line.

KEVIN P. RACE  
Georgia Bar No. 591590  
DAVID V. JOHNSON  
Georgia Bar No. 393310

Counsel for Defendant  
Tenet South Fulton, Inc. d/b/a  
South Fulton Medical Center  
and Renee Smalls, R.N.

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